

HISTORIC LANDMARK COMMISSION
PERMITS IN NATIONAL REGISTER HISTORIC DISTRICTS
AUGUST 25, 2014
NRD-2014-0078
1631 Palma Plaza
Old West Austin

PROPOSAL

Demolish a ca. 1942 contributing house and construct a new house.

PROJECT SPECIFICATIONS

The applicant proposes to demolish a ca. 1942 house that is contributing to the Historic District and to build a new house in its place. The proposed new house will be a total of three stories, including the basement level. The house will be brick on the Palma Plaza frontage, which will have a one-story appearance with a tall roof, a stucco section behind that and a wood-sided section behind that. Both the stucco and wood-sided sections will be a full two stories. There is also proposed a deck on the back of the house.

HISTORY OF THE PROPERTY

The existing brick house was built in 1942 by Harvey Deen, who was an engineer with the State Highway Department from 1921 until his retirement in 1960. After his death in 1977, his widow, Allie, continued to live in the house until her death in 2005.

STANDARDS FOR REVIEW

The house is contributing to the Old West Austin National Register Historic District, which has no specific design guidelines for additions. General design principles for historic districts encourage additions to the rear of the house with scale, massing, materials, and fenestration patterns complementing the house and other contributing houses within the district.

STAFF RECOMMENDATION

Postpone to September 22, 2014 to evaluate alternatives to demolition. The house is contributing to the historic district, and is a classic example of Colonial Revival architecture, with a symmetrical façade, a highlighted central doorway, and 6:6 windows, and is compatible with the historic character of the street and district.

RESTRICTIVE COVENANT

STATE OF TEXAS §
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 COUNTY OF TRAVIS §

WHEREAS, the undersigned, Seamless Palma Plaza LLC, a Texas limited liability company ("Declarant"), is the fee simple owner of the property described on the attached (the "Palma Plaza Property") and on the attached (the "Woodlawn Property") **Exhibit A**; and

WHEREAS Declarant, for itself and its successors and assigns, desires to develop the Palma Plaza Property and the Woodlawn Property into multifamily residential developments; and

WHEREAS Declarant, for itself and its successors and assigns, desires to incorporate into the Palma Plaza Property and the Woodlawn Property that certain right-of-way consisting of 6,680 sq. ft located in the 1300 Block of Woodlawn Avenue immediately west of the Palma Plaza Property and the Woodlawn Property as described in the attached **Exhibit A** (the "ROW Property") by requesting the vacation of the ROW Property by the City of Austin to the Declarant to facilitate their development of the Palma Plaza Property and the Woodlawn Property; and

WHEREAS the Palma Plaza Property, the Woodlawn Property and the ROW Property are sometimes collectively referred to herein as the "Property;" and

WHEREAS the Clarksville Community Development Corporation ("CCDC"), the Old West Austin Neighborhood Association ("OWANA") and David M. Gottfried, his successors and assigns ("Gottfried") objected to the vacation of the ROW Property because of concerns relating to the preservation of the historical nature of the neighborhood and its structures, the preservation of the character of the neighborhood and potential diminution of property values. The CCDC, OWANA and Gottfried shall collectively be referred to herein as the "Affected Parties;" and

WHEREAS Declarant and the Affected Parties, for and in consideration of the sum of ten dollars and other good and valuable consideration, including but not limited to the support of the Affected Parties for the vacation of the ROW Property for the benefit of Declarant, Declarant has agreed to impress the Restrictive Covenants contained herein upon the Palma Plaza Property, the Woodlawn Property and the ROW Property (anticipated to be later acquired by Declarant) which restrictive covenants shall be in addition to the restrictive covenants previously recorded in Deed Records of Travis County, Texas relating to the Palma Plaza Property and the Woodlawn Property.

NOW THEREFORE,

Declarant, as the fee simple owner of the Palma Plaza Property and the Woodlawn Property, and anticipated to be the owners of the ROW Property, establish these Restrictions as covenants, conditions, and restrictions, whether mandatory, prohibitive, permissive, or administrative, to regulate the structural integrity, appearance, and uses and the improvements

placed on the Palma Plaza Property and the Woodlawn Property, as well as the ROW Property, if later acquired by Declarant. Declarant and Affected Parties stipulate that (a) the Restrictions touch and concern the Palma Plaza Property, the Woodlawn Property and the ROW Property; (b) privity of estate exists by reason of the ownership of the Palma Plaza Property, the Woodlawn Property and will exist with respect to the ROW Property if later acquired; (c) notice is given by filing this instrument in the real property records of the county in which the Palma Plaza Property, the Woodlawn Property and the ROW Property are situated; and (d) the Restrictions are reasonable, their purposes being for the common benefit of the immediate neighborhood of the Palma Plaza Property, the Woodlawn Property and the ROW Property, Declarant and the Affected Parties, who are affected by the structural integrity, appearance, and uses of the Palma Plaza Property, the Woodlawn Property and the ROW Property and the neighborhood associations. The Restrictions run with the land making up the Palma Plaza Property, the Woodlawn Property and the ROW Property, are binding on Declarant and Declarant's successors and assigns forever, and inure to the benefit of Declarant, Affected Parties, and their successors and assigns forever.

1. There shall be no modification of the historically contributing residence existing as of the date of this Restrictive Covenant that will render such residence on the Palma Plaza Property a non-contributing historical structure in the reasonable opinion of an expert in the field of such analysis. Such expert shall be chosen by agreement of the representatives of the Declarant and representatives of the Affected Parties. If agreement cannot be reached, the Declarant shall select an expert, the Affected Parties shall select an expert and then those two chosen experts shall select the expert to perform the analysis.
2. All occupant and visitor parking shall be behind the structure to be built on the Woodlawn Property and not visible from Palma Plaza, Woodlawn Avenue and Waterston Street; provided, however, up to two (2) units on the Woodlawn Property in the structure may have garages and driveways facing Waterston, but such occupants and visitors shall be prohibited from parking any vehicles in the driveways from Waterston and such restriction shall be a deed restriction contained in the deeds conveying those two (2) units.
3. There will be no "No Parking/Tow Away Zone" type signs facing any properties neighboring the Palma Plaza Property or the Woodlawn Property that are installed by any developer or owners of the Property, or any portion thereof.
4. Owners of the all or any portion of the Woodlawn Property shall plant and maintain up to four (4) six-inch (6") diameter trees between the property known as 1629 Palma Plaza, Austin, Texas and any structure built on the Woodlawn Property at an initial installation cost not exceeding \$5,000.00.
5. Impervious coverage on the Palma Plaza Property, the Woodlawn Property and the ROW Property shall not exceed the maximum allowable of 65%.
6. All exterior lighting on the Palma Plaza Property, the Woodlawn Property and the ROW Property shall be hooded, diffused, or otherwise designed and arranged to minimize glare and light trespass onto adjacent properties and public streets.

7. There shall be no structures built on the Palma Plaza Property, the Woodlawn Property or the ROW Property that will require that a dumpster be located on the Palma Plaza Property, the Woodlawn Property or the ROW Property. Therefore, all units on the Palma Plaza Property, the Woodlawn Property and the ROW Property shall use individual garbage receptacles provided by the City, unless otherwise specifically prohibited by the City.
8. Height of the roofline of any structure constructed on the Woodlawn Property shall be limited to a maximum height of 14-feet above the current ridgeline of the residence located on the Palma Plaza Property as of the date of this Restrictive Covenant which is 548.63 feet above sea level or 14 feet above the ridgeline of the structure on the Palma Plaza Property on the date of this Restrictive Covenant, whichever is lower.
9. The structure(s) built on the Woodlawn Property may encroach on the ROW Property up to a maximum of 15-feet.
10. The structure(s) built on the Woodlawn Property shall maintain a minimum 30' setback from the current curb line to the south on Waterston and the current curb line to the west on Woodlawn. A true and correct copy of the current survey is attached hereto as **Exhibit A**.
11. No more than 7 units shall be constructed on the Woodlawn Property, subject to the Restrictive Covenants referenced herein.
12. The development on the Palma Plaza Property, the Woodlawn Property or the ROW Property shall not incorporate the property immediately adjacent to the Woodlawn Property to the east, which is currently known as 1632 Waterston, Austin, Texas.
13. No more than 1 driveway access for ingress and egress shall be permitted to the Woodlawn Property from Waterston Street.
14. No more than 1 driveway access for ingress and egress shall be permitted to the Woodlawn Property and Palma Plaza Property from Woodlawn Avenue.
15. No access to the Palma Plaza Property shall be permitted in addition to the access currently provided as shown on **Exhibit A**.

Declarant agree, in exchange for Ten and No/100 dollars (\$10.00) and other good and valuable consideration paid by the Clarksville Community Development Corporation ("CCDC"), the Old West Austin Neighborhood Association ("OWANA") and David M. Gottfried ("Gottfried"), the receipt and sufficiency of which is hereby acknowledged and confessed by Declarant, to post a performance or cash bond ("Security Instrument") with Wells Fargo Bank, 400 West Sixth Street, Austin, Texas 78701, for the benefit of CCDC, OWANA and Gottfried, in the amount of Twenty Thousand and no/Dollars (\$20,000.00), prior to the Austin City Council's consideration of the sale and vacation of the ROW Property.

If on or before the later of (i) sixty (60) days after the date a Certificate of Occupancy (as the term "Certificate of Occupancy" is defined in the City Code of the City of Austin) for the Project is issued for the Palma Plaza Property and the Woodlawn Property, or (ii) the date a majority of the Condominium Units built on the Palma Plaza Property and the Woodlawn Property are sold, there is a material breach of the restrictive covenants itemized above as Nos. 1 through 15, two out of the three of the Affected Parties (if for CCDC, upon a vote of its Board of Directors and if for OWANA, upon a vote of its Steering Committee), agree to institute legal proceedings to enforce these Restrictive Covenants, then the Security Instrument shall be fully surrendered and released to the CCDC, OWANA and Gottfried, who may draw on the proceeds of the Security Instrument from time to time thereafter to pay invoices for actual out-of-pocket costs incurred as a direct result of instituting and pursuing such legal proceedings, including all attorneys and other consultants' fees and court costs. If a delay in the filing of a legal action by the Affected Parties to enforce an alleged material breach of the restrictive covenants itemized above as Nos. 1 through 15 will not unduly prejudice the Affected Parties, the Affected Parties shall provide Declarant five (5) business day's written notice and opportunity to cure such alleged defect before filing any such action. Such delay by the Affected Parties shall not be alleged by Declarant as constituting a waiver or argued by Declarant as a defense to the enforcement action instituted by the Affected Parties.

If for any reason, the restrictions contained in this Restrictive Covenant are deemed not to be imposed upon the ROW Property, the Declarant and Affected Parties intend that the restrictive covenants will continue to be imposed upon the Palma Plaza Property and the Woodlawn Property. The restrictive covenant created in this document will take precedence over the restrictive covenants recorded in Volume _____, Page _____, Deed Records of Travis County, Texas, a true and correct copy of which is attached hereto as **Exhibit B** and the restrictive covenants recorded in Volume _____, Page _____, Deed Records of Travis County, Texas, a true and correct copy of which is attached hereto as **Exhibit C**, in the event that such covenants are in conflict with the restrictive covenant created in this document.

Seamless Palma Plaza, LLC

By: _____
Its: _____

Joseph S. Wainwright

PRESIDENT

Acknowledged:

David M. Gottfried

David M. Gottfried

Clarksville Community Development Corporation

By: _____
Its: _____

Marcy Reed

Vice President & Agent of Record

Old West Austin Neighborhood Association

By: _____
Its: _____

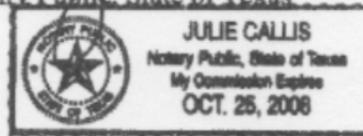
Jim Stearns

Zoning Chairperson

STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 14 day of June, 2007, by Joseph S. Wernock, the President of Seamless Palma Plaza LLC.

Julie Callis
Notary Public, State of Texas



STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 14 day of June, 2007, by David M. Gottfried.

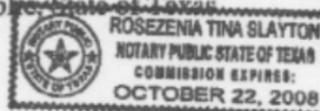
Jane D. Smith
Notary Public, State of Texas



STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 15 day of June, 2007, by Mary Reed, the Director of the Clarksville Community Development Corporation.

Rosezenia "Tina" Slayton
Notary Public, State of Texas



STATE OF TEXAS §
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COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 15 day of June, 2007, by Jean Stevens, the Toning Chair of Old West Austin Neighborhood Association.

Rosezenia "Tina" Slayton
Notary Public, State of Texas

